

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

RONNIE EDWARD MILLER, JR.,)	
#244648,)	
)	
Plaintiff,)	
)	
v.)	CASE NO. 2:21-CV-52-ECM-KFP
)	[WO]
WARDEN CALLOWAY, et al.,)	
)	
Defendants.)	

RECOMMENDATION OF THE MAGISTRATE JUDGE

Pro se Plaintiff Ronnie Miller filed this 42 U.S.C. § 1983 action on January 21, 2021. Defendants since filed an Answer and Special Report, with supporting evidentiary materials, denying Plaintiff's allegations. Doc. 11. The Court ordered Plaintiff to file a response to Defendants' materials by May 4, 2021, and cautioned that a failure to respond would result in a recommendation of dismissal for failure to prosecute. *Id.* Plaintiff has failed to respond to Defendants' materials and failed to comply with the Court's Order.

A federal district court has the inherent power to dismiss a case *sua sponte* for failure to prosecute or obey a court order. *See, e.g., Link v. Wabash R.R. Co.*, 370 U.S. 626, 629–30 (1962); FED. R. CIV. P. 41(b). The Eleventh Circuit has made clear that “dismissal is warranted only upon a ‘clear record of delay or willful contempt and a finding that lesser sanctions would not suffice.’” *Mingo v. Sugar Cane Growers Co-Op of Fla.*, 864 F.2d 101, 102 (11th Cir. 1989) (per curiam) (emphasis omitted) (quoting *Goforth v. Owens*, 766 F.2d 1533, 1535 (11th Cir. 1985)). Here, the undersigned finds Plaintiff has willfully failed to

file a response and comply the Court's Order. Considering Plaintiff's disregard for Court orders, the undersigned finds sanctions lesser than dismissal would not suffice.

Accordingly, the Magistrate Judge RECOMMENDS this case be DISMISSED without prejudice.

It is further ORDERED that by **August 2, 2021**, the parties may file objections to the Recommendation. The parties must specifically identify the factual findings and legal conclusions in the Recommendation to which objection is made. Frivolous, conclusive, or general objections will not be considered by the Court. The parties are advised that this Recommendation is not a final order and, therefore, is not appealable.

Failure to file written objections to the Magistrate Judge's findings and recommendations in accordance with 28 U.S.C. § 636(b)(1) will bar a party from a de novo determination by the District Court of legal and factual issues covered in the Recommendation and waive the right of the party to challenge on appeal the District Court's order based on unobjected-to factual and legal conclusions accepted or adopted by the District Court except on grounds of plain error or manifest injustice. *Nettles v. Wainwright*, 677 F.2d 404 (5th Cir. 1982); 11TH CIR. R. 3-1. *See Stein v. Reynolds Sec., Inc.*, 667 F.2d 33 (11th Cir. 1982); *see also Bonner v. City of Prichard*, 661 F.2d 1206 (11th Cir. 1981) (en banc).

DONE this 19th day of July, 2021.

/s/ Kelly Fitzgerald Pate

KELLY FITZGERALD PATE

UNITED STATES MAGISTRATE JUDGE